

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

T. J. GROUP INVESTMENTS, LLC,)
a Nebraska limited liability)
company, and ZESTO, INC., a)
Missouri Corporation,)

Plaintiffs,)

v.)

ALPHA WOLFE, INC., a Nebraska)
corporation, and DAVID WOLFE)
and SANDRA WOLFE,)
Individuals, and ZESTO SHOP,)
INC., a Nebraska corporation,)

Defendants.)

4:06CV3131

MEMORANDUM AND ORDER

A telephone conference was held with counsel in this case on December 12, 2006 pursuant to Fed. R. Civ. P. 16. Representing plaintiff T. J. Group Investments, LLC, was Ms. Jane F. Langan, Esq. Representing defendants Alpha Wolfe, Inc., David Wolfe, and Sandra Wolfe was Ms. Marnie A. Jensen, Esq. Representing defendant Zesto Shop, Inc. were Mr. Terry Wittler, Esq. and Ms. Laura Hegge, Esq. Counsel discussed the procedural posture of the case, particularly the status and representation of Zesto, Inc., named an involuntary plaintiff in the Amended Complaint, as well as the representation of the other parties and other issues. It was agreed that Zesto, Inc. is not now a party but would be named as a third-party defendant in amended answers and third-party complaints to be filed by defendant Zesto Shop, Inc. and defendants Alpha Wolfe, Inc., David Wolfe, and Sandra Wolfe. It was also agreed that the planning conference should be postponed until such time as counsel for Zesto, Inc. can participate. Ms.

Langan clarified that the signature block of the Amended Complaint is in error, and she does not represent Zesto, Inc. Ms. Jensen clarified that the motion for extension of time, filing 5, is in error in that she does not represent Zesto Shop, Inc. In accordance with the discussion during the conference,

IT THEREFORE HEREBY IS ORDERED:

1. The Amended Complaint, filing 29, is amended by the court as follows: (a) In the first paragraph by striking "and Zesto, Inc. (hereinafter 'Zesto, Inc.')" therefrom; and (b) By striking from the signature block the words "and ZESTO, INC." and also to strike the "s" in "Plaintiffs." The clerk shall correct the docket sheet by removing Zesto, Inc. as a named plaintiff, and removing Rembolt Ludtke LLP and Jane F. Langan and Troy S. Kirk as counsel for Zesto, Inc.

2. The Motion for Extension of Time, filing 5, is amended by the court by striking references to Zesto Shop, Inc. as a moving party, both in the body of the motion and in the signature block. The clerk shall correct the docket sheet by removing Marnie A. Jensen as counsel for Zesto Shop, Inc.

3. The oral motions of defendants Zesto Shop, Inc., Alpha Wolfe, Inc., David Wolfe, and Sandra Wolfe for leave to file amended answers and third-party complaints are granted, and said defendants are given leave to file amended answers and third-party complaints within seven working days, naming Zesto, Inc. as third-party defendant. The clerk is authorized to issue summons for service on the third party defendant.

4. The parties' planning conference with the court is continued as follows: Once the third-party defendant has been served and has appeared in the case, counsel shall confer and inform the office of the undersigned when they can be ready to hold the conference, and the conference shall be rescheduled accordingly. The deadlines for completing various matters before the planning report, as shown in the initial progression order, Filing 23, are continued accordingly.

5. The Motion for Issuance of Summons, Filing 32, the Motion to Extend Time to Disclose Expert Witnesses, Filing 33, and the Joint Motion to Extend Deadline to Disclose Expert Witnesses, Filing 34, are denied as moot.

DATED this 12th day of December, 2006.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge